

(CAPs), if necessary, within thirteen (13) months following the end of the recipient's fiscal year, to the DOL (OIG). Direct recipients not assigned a cognizant Federal agency shall normally submit the audit report through the Federal agency that provides the most direct Federal funds. Those reports meeting the requirements of a single audit as prescribed by subpart 96.1 or subpart 96.2 shall be forwarded by the DOL OIG for resolution to the appropriate DOL program official(s). The Program official(s) shall promptly evaluate the findings and recommendations in the report along with any OIG comments and determine appropriate action.

(b) *Inadequate reports.* Where DOL is cognizant, OIG will review reports to determine if they meet the requirements of subparts 96.1 or 96.2. Where reports are found not to meet applicable requirements, OIG will provide written notice to the recipient. Such written notice will include an explanation of why the report is inadequate, actions required to correct the inadequacies, timeframes for correcting the inadequacies, and consequences of the failure to take corrective action.

§96.503 Audit resolution generally.

The DOL official(s) responsible for audit resolution shall promptly evaluate findings and recommendations reported by auditors and the CAP developed by the recipient to determine proper actions in response to audit findings and recommendations. The process of audit resolution minimally includes an initial determination, an informal resolution period and a final determination.

(a) *Initial determination.* After the conclusion of any comment period for audits provided the grantee/contractor, the responsible DOL official(s) shall make an initial determination on the allowability of questioned costs or activities, administrative or systemic findings, and the corrective actions outlined by the recipient. Such determination shall be based on applicable statutes, regulations, administrative directives, or grant/contract conditions.

(b) *Informal resolution.* The grantee/contractor shall have a reasonable pe-

riod of time (as determined by the DOL official(s) responsible for audit resolution) from the date of issuance of the initial determination to informally resolve those matters in which the grantee/contractor disagrees with the decisions of the responsible DOL official(s).

(c) *Final determination.* After the conclusion of the informal resolution period, the responsible DOL official(s) shall issue a final determination that:

(1) As appropriate, indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;

(2) Lists those matters upon which the parties continue to disagree;

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination;

(4) Lists any sanctions and required corrective actions; and

(5) Sets forth any appeal rights.

(d) *Time limit.* Insofar as possible, the requirements of this section should be met within 180 days of the date the final approved audit report is received by the DOL official(s) responsible for audit resolution.

§96.504 Responsibility for sub-recipient audits.

Recipients of Federal assistance from DOL are responsible for ensuring that subrecipient organizations to whom they provide \$25,000 or more in a fiscal year are audited and that any audit findings are resolved in accordance with this part. The recipient shall:

(a) Determine whether appropriate audit requirements outlined in subpart 96.1 or subpart 96.2 have been met;

(b) Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of non-compliance with Federal law and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require that each subrecipient permit independent auditors to have access to the records and financial

statements necessary to comply with this part.

Subpart 96.6—Appeals

SOURCE: 53 FR 5968, Feb. 26, 1988, unless otherwise noted.

§ 96.601 Purpose and scope of subpart.

(a) The purpose of this subpart is to set forth procedures by which grantees and contractors may appeal final determinations by DOL officials responsible for audit resolution as a result of audits, where such appeal rights and procedures are not established elsewhere in regulations and statutes administered by DOL or its subagencies. This subpart shall not apply where such appeal rights and procedures are so specified elsewhere.

(b) Subgrantees and subcontractors shall have only such appeal rights as may exist in subgrants or subcontracts with the respective grantees or contractors.

(c) For the purpose of this subpart, the term *grant* shall include all agreements for Federal assistance from DOL which are not contracts as defined in the Contract Disputes Act.

§ 96.602 Contracts.

Upon a contractor's receipt of the DOL contracting officer's final determination as a result of an audit, the contractor may appeal the final determination to the DOL Board of Contract Appeals, pursuant to 41 CFR part 29-60 and 48 CFR part 2933 or pursue such other remedies as may be available under the Contract Disputes Act.

§ 96.603 Grants.

The DOL grantor agencies shall determine which of the two appeal options set forth in paragraphs (a) and (b) of this section the grantee may use to appeal the final determination of the grant officer. All grants within the same grant program shall follow the same appeal procedure.

(a) *Appeal to the head of the grantor agency, or his/her designee, for which the audit was conducted*—(1) *Jurisdiction*—(i) *Request for hearing*. Within 21 days of receipt of the grant officer's final determination, the grantee may transmit, by certified mail, return receipt

requested, a request for hearing to the head of the grantor agency, or his/her designee, as noted in the final determination. A copy must also be sent to the grant officer who signed the final determination.

(ii) *Statement of issues*. The request for a hearing shall be accompanied by a copy of the final determination, if issued, and shall specifically state those portions of the final determination upon which review is requested. Those portions of the final determination not specified for review shall be considered resolved and not subject to further review.

(iii) *Failure to request review*. When no timely request for a hearing is made, the final determination shall constitute final action by the Secretary of Labor and shall not be subject to further review.

(2) *Conduct of hearings*. The grantor agency shall establish procedures for the conduct of hearings by the head of the grantor agency, or his/her designee.

(3) *Decision of the head of the grantor agency, or his/her designee*. The head of the grantor agency, or his/her designee, should render a written decision no later than 90 days after the closing of the record. This decision constitutes final action of the Secretary of Labor.

(b) *Appeal to the DOL Office of Administrative Law Judges*—(1) *Jurisdiction*—(i) *Request for hearing*. Within 21 days of receipt of the grant officer's final determination, the grantee may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Suite 700, Vanguard Building, 1111 20th Street NW., Washington, DC 20036, with a copy to the grant officer who signed the final determination. The Chief Administrative Law Judge shall designate an administrative law judge to hear the appeal.

(ii) *Statement of issues*. The request for a hearing shall be accompanied by a copy of the final determination, if issued, and shall specifically state those portions of the final determination upon which review is requested. Those portions of the final determination not specified for review shall be considered resolved and not subject to further review.